

Message Text

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ORIGIN L-03

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DRAFTED BY L/ARA:DAGANTZ

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L/C:TTFHUANG

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R 252123Z JUN 74

FM SECSTATE WASHDC

TO AMCONSUL GUAYAQUIL

INFO AMEMBASSY QUITO

C O N F I D E N T I A L STATE 136561

E.O. 11652: GDS

TAGS: CASC, EFIS, EC

SUBJECT: B AND B FISHERIES MATTER

REF: A. GUAYAQUIL 648 B. GUAYAQUIL 657

1. IN VIEW OF ELY'S EFFORTS REPORTED REF B TO WORK OUT SATISFACTORY AGREEMENT BETWEEN BBFI AND EPNA WHICH WOULD PERMIT ASSOCIATION AGREEMENT CONTINUE IN EFFECT IN AMENDED FORM, DEPT. DID NOT CALL BONNEY AS RECOMMENDED PARA 8 REF A. IN ANY CASE, WE WOULD HAVE BEEN RELUCTANT GET INTO DISCUSSION OF WEAKNESS OR STRENGTH OF HIS LEGAL POSITION; IN THE FINAL ANALYSIS CONTRACT CANCELLATION MUST BE COMPANY'S DECISION, A DECISION WHICH WOULD BE BASED, INTER ALIA, ON COMPANY'S ASSESSMENT OF ITS LEGAL POSITION AS WELL AS POSSIBLE LOSSES TO COMPANY WHICH WOULD BE INCURRED IF CONTRACT WERE HONORED.

2. INFORMATION PRESENTLY AVAILABLE ON BBFI AND B AND B FISHERIES IS NOT SUFFICIENT FOR US TO DETERMINE EXTENT OF US-INVESTOR INTEREST, WHICH WOULD OBVIOUSLY BE IMPORTANT IN DETERMINING WHAT ACTIONS BY USG ON BEHALF OF BBFI WOULD BE APPROPRIATE.

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3. FYI: FACT THAT CONTRACT HAS A CALVO CLAUSE DOES NOT
BAR USG FROM EXERCISING RIGHT OF DIPLOMATIC PROTECTION
IN CASES WHERE IT WOULD OTHERWISE BE APPROPRIATE. WE TAKE

VIEW THAT THIS RIGHT ACCRUES TO USG UNDER RECOGNIZED
PRINCIPLES OF INTERNATIONAL LAW AND CANNOT BE WAIVED BY
ACTION OF A PRIVATE PARTY WITHOUT USG CONSENT. END FYI.

4. WOULD BE HELPFUL HAVE MORE INFORMATION CONCERNING
EXTENT OF US-INVESTOR INTEREST IN BBFI. IF THERE IS NO
SIGNIFICANT US-INVESTOR INTEREST, WE WOULD BE RELUCTANT
TO MAKE ANY DIRECT EFFORTS TO PROTECT BBFI FINANCIAL
INTERESTS, AS DISTINCT FROM USG FOREIGN POLICY INTEREST
IN AVOIDING AN INCIDENT WHICH WOULD HAVE ADVERSE EFFECTS
ON OUR EFFORTS TO WORK OUT A MODUS OPERANDI WITH THE GOE
ON RELATED FISHING MATTERS. IN ANY EVENT, AT PRESENT
TIME WE ASSUME EMBASSY EFFORTS WOULD BE LIMITED TO GOOD
OFFICES AND POSSIBLE INFORMAL REPRESENTATIONS TO EFFECT
THAT WE HOPE BBFI AND GOE CAN WORK OUT A MUTUALLY
SATISFACTORY MEANS OF CONTINUING THEIR RELATIONSHIP. SISCO

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